

*harvested.* (i) If the Regional Administrator determines that the GB yellowtail flounder TAC specified for the U.S./Canada Management Area under paragraph (a)(2) of this section has been harvested or is projected to be harvested, and notification has been published in the FEDERAL REGISTER, pursuant to paragraph (a)(3)(iv)(C)(3) of this section, but the yellowtail flounder bycatch TAC allocation for the GB stock specified under paragraph (c)(1)(ii) of this section has not been harvested, scallop vessels may continue to fish in the Sea Scallop Area Access Program, but may not retain or land yellowtail flounder, until the yellowtail flounder bycatch TAC is caught, as specified in paragraph (c)(3)(ii) of this section. All catch of yellowtail flounder must continue to be reported by scallop vessels fishing in Access Areas as required under § 648.60.

(ii) If the Regional Administrator determines that the yellowtail flounder bycatch TAC allocation specified under paragraph (c)(1)(i) or (c)(1)(ii) of this section has been, or is projected to be harvested, scallop vessels may not fish within the applicable Access Area for the remainder of the fishing year. The Regional Administrator shall publish notification in the FEDERAL REGISTER, in accordance with the Administrative Procedure Act, to notify vessels that they may no longer fish within the applicable Access Area for the remainder of the fishing year.

(d) *Incidental catch allowance for some limited access herring vessels.* The incidental catch allowance for vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit is defined as 0.2 percent of the combined target TAC for Gulf of Maine haddock and Georges Bank haddock (U.S. landings only) specified according to § 648.90(a) for a particular multispecies fishing year.

[69 FR 22975, Apr. 27, 2004]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 648.85, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. At 74 FR 17056, Apr. 13, 2009, § 648.85 was amended by suspending paragraphs (a)(3)(ii), (iii), (v)(A), (B),

(C), (b)(4) through (7), (8)(v)(E)(2) and (H) and by adding paragraphs (a)(3)(v)(D), (E), (F), (viii), (ix), (b)(8)(v)(E)(3), (M), (N) and (9), (10) and (11), effective May 1, 2009 through October 28, 2009.

2. At 74 FR 32468, July 8, 2009, in § 648.85, paragraphs (b)(10)(iv)(D), (v)(C) and (D) and (11)(vi)(D) were revised, effective July 2, 2009 through October 28, 2009.

**§ 648.86 NE Multispecies possession restrictions.**

Except as provided in § 648.17, the following possession restrictions apply:

(a) *Haddock*—(1) *NE multispecies DAS vessels*—(i) *Implementation and adjustments to the haddock trip limit to prevent exceeding the Target TAC.* At any time prior to or during the fishing year, if the Regional Administrator projects that the Target TAC for haddock will be exceeded in that fishing year, NMFS may implement or adjust, in a manner consistent with the Administrative Procedure Act, a per DAS possession limit and/or a maximum trip limit in order to prevent exceeding the Target TAC in that fishing year.

(ii) *Implementation and adjustments to the haddock trip limit to facilitate harvest of the Target TAC.* At any time prior to or during the fishing year, if the Regional Administrator projects that less than 90 percent of the Target TAC for that fishing year will be harvested, NMFS may remove or adjust, in a manner consistent with the Administrative Procedure Act, a per DAS possession limit and/or a maximum trip limit in order to facilitate a haddock harvest and enable the total catch to approach the Target TAC for that fishing year.

(iii) *Adjustments*—(A) *Adjustment to the haddock trip limit to prevent exceeding the target TAC.* At any time during the fishing year, if the Regional Administrator projects that the target TAC for haddock will be exceeded, NMFS may adjust, through publication of a notification in the FEDERAL REGISTER, the trip limit per DAS and/or the maximum trip limit to an amount that the Regional Administrator determines will prevent exceeding the target TAC.

(B) *Adjustment of the haddock trip limit to allow harvesting of up to 75 percent of the target TAC.* At any time during the fishing year, if the Regional Administrator projects that less than

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75 percent of the target TAC for haddock will be harvested by the end of the fishing year, NMFS may adjust or eliminate, through publication of a notification in the FEDERAL REGISTER, the trip limit per DAS and/or the maximum trip limit to an amount, including elimination of the per day and/or per trip limit, that is determined to be sufficient to allow harvesting of at least 75 percent of the target TAC, but not to exceed the target TAC.

(2) *Scallop dredge vessels.* (i) No person owning or operating a scallop dredge vessel issued a NE multispecies permit may land haddock from, or possess haddock on board, a scallop dredge vessel from January 1 through June 30.

(ii) No person owning or operating a scallop dredge vessel without an NE multispecies permit may possess haddock in, or harvested from, the EEZ from January 1 through June 30.

(iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg) of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(3)(i) *Incidental catch allowance for some limited access herring vessels.* Vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit may possess and land haddock on all trips that do not use a NE multispecies DAS, subject to the requirements specified in § 648.80(d) and (e).

(ii) *Haddock incidental catch cap.* (A)(I) When the Regional Administrator has determined that the incidental catch allowance in § 648.85(d) has been caught, all vessels issued an Atlantic herring permit or fishing in the Federal portion of the GOM/GB Herring Exemption Area, defined in this para-

graph (a)(3)(ii)(A)(I), are prohibited from fishing for, possessing, or landing herring in excess of 2,000 lb (907.2 kg) per trip in or from the GOM/GB Herring Exemption Area, unless all herring possessed and landed by the vessel were caught outside the GOM/GB Herring Exemption Area and the vessel complies with the gear stowage provisions specified in § 648.23(b) while transiting the Exemption Area. Upon this determination, the haddock possession limit is reduced to 0 lb (0 kg) for all vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit, regardless of where they were fishing. In making this determination, the Regional Administrator shall use haddock landings observed by NMFS-approved observers and law enforcement officials, and reports of haddock catch submitted by vessels and dealers pursuant to the reporting requirements of this part. The GOM/GB Herring Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

GB/GOM HERRING EXEMPTION AREA

Point	N. lat.	W. long.
1	41° 33.05'	70° 00'
2	41° 20'	70° 00'
3	41° 20'	69° 50'
4	41° 10'	69° 50'
5	41° 10'	69° 30'
6	41° 00'	69° 30'
7	41° 00'	68° 50'
8	39° 50'	68° 50'
9	39° 50'	66° 40'
10	40° 30'	66° 40'
11	40° 30'	64° 44.34'
12	41° 50'	66° 51.94'
13	41° 50'	67° 40'
14	44° 00'	67° 40'
15	44° 00'	67° 50'
16	44° 10'	67° 50'
17	44° 27'	67° 59.18'
18	ME, NH, MA Coastlines	
19	41° 33.05'	70° 00'

(2) The haddock incidental catch cap specified is for the NE multispecies fishing year (May 1 April 30), which differs from the herring fishing year (January 1 December 31). If the haddock catch cap is attained by the limited access herring fishery, the 2,000-lb (907.2-

kg) limit on herring possession and landings in the GOM/GB Herring Exemption Area will be in effect until the end of the NE multispecies fishing year. For example, the 2006 haddock catch cap would be specified for the period May 1, 2006 April 30, 2007, and the 2007 haddock catch cap would be specified for the period May 1, 2007 April 30, 2008. If the catch of haddock by limited access herring vessels reached the 2006 catch cap at any time prior to the end of the NE multispecies fishing year (April 30, 2007), the 2,000-lb (907.2-kg) limit on possession or landing herring in the GOM/GB Herring Exemption Area would extend through April 30, 2007, at which time the 2007 catch cap would go into effect.

(B) [Reserved]

(b) *Cod*—(1) *GOM cod landing limit*. (i) Except as provided in paragraphs (b)(1)(ii) and (b)(4) of this section, or unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS may land only up to 800 lb (362.9 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 800 lb (362.9 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 800 lb (362.9 kg) for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 4,000 lb (1,818.2 kg) per trip (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than, 1,600 lb (725.7 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 800 lb (362.9 kg) of cod for that trip, provided the vessel complies with the provisions of paragraph (b)(1)(ii) of this section. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel that has been called into or declared into only part of an additional 24-hr block may come into port with and offload cod up to an additional 800 lb (362.9 kg), provided that the vessel operator, with the exception of vessels fishing in one of the two Differential DAS Areas under the restrictions of § 648.82(e)(2)(i), complies with the following:

(A) For a vessel that is subject to the VMS provisions specified under § 648.10(b), the vessel declares through VMS that insufficient DAS have elapsed in order to account for the amount of cod onboard and, after returning to port, does not depart from a dock or mooring in port, unless transiting as allowed under paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been in the DAS program for 25 hr prior to crossing the VMS demarcation line on the return to port) may land only up to 1,600 lb (725.6 kg) of cod, provided the vessel does not declare another trip or leave port until 48 hr have elapsed from the beginning of the trip).

(B) Vessels that have been authorized by the Regional Administrator, in lieu of VMS, to utilize the DAS call-in system, as specified in § 648.10(h), may not call out of the DAS program under § 648.10(h)(5) and may not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr at the time of landing may land only up to 1,600 lb (725.6 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip.)

(2) *GB cod landing and maximum possession limits*. (i) Unless otherwise restricted under § 648.85 or the provisions of paragraph (b)(2)(ii) of this section, or unless exempt from the landing limit under paragraph (b)(1) of this section as authorized under the Sector provisions of § 648.87, a NE multispecies DAS vessel may land up to 1,000 lb (453.6 kg)

of cod per DAS, or part of a DAS, provided it complies with the requirements specified at paragraph (b)(4) of this section and this paragraph (b)(2). A NE multispecies DAS vessel may land up to 1,000 lb (453.6 kg) of cod during the first 24-hr period after such vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 1,000 lb (453.6 kg) of cod, but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 1,000 lb (453.6 kg) of cod for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 10,000 lb (4,536 kg) of cod per trip (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than, 2,000 lb (907.2 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 1,000 lb (453.6 kg) of cod for that trip, provided the vessel complies with the provisions of paragraph (b)(2)(ii) of this section. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel that has been called into or declared into only part of an additional 24-hr block may come into port with and offload cod up to an additional 1,000 lb (453.6 kg), provided that the vessel operator, with the exception of vessels fishing in one of the two Differential DAS Areas under the restrictions of § 648.82(e)(2)(i), complies with the following:

(A) For a vessel that has been authorized by the Regional Administrator to utilize the DAS call-in system as specified under § 648.10(c), in lieu of VMS, the vessel does not call out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting, as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of DAS has

elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr at the time of landing may land only up to 2,000 lb (907.2 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip.)

(B) For a vessel that is subject to the VMS provisions specified under § 648.10(b), the vessel declares through VMS that insufficient DAS have elapsed in order to account for the amount of cod onboard, and after returning to port does not depart from a dock or mooring in port, unless transiting, as allowed under paragraph (b)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been in the DAS program for 25 hr prior to crossing the VMS demarcation line on the return to port may land only up to 2,000 lb (907.2 kg) of cod, provided the vessel does not declare another trip or leave port until 48 hr have elapsed from the beginning of the trip.)

(3) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraphs (b)(1) and (2) of this section, and that is, therefore, subject to the requirement to remain in port for the period of time described in paragraphs (b)(1)(ii)(A) and (b)(2)(ii)(A) of this section, may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator, either at the time the vessel reports its hailed weight of cod, or at a later time prior to transiting, and provides the following information: Vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.23(b) and may not have any fish on board the vessel.

(4) *Exemption.* A vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (b)(1) of this section when fishing south of the Gulf of Maine Regulated

Mesh Area, defined in § 648.80(a)(1), provided that it complies with the requirement of this paragraph (b)(4).

(i) *Declaration.* With the exception of vessels declared into the U.S./Canada Management Area, as described under § 648.85(a)(3)(ii), a NE multispecies DAS vessel that fishes or intends to fish south of the line described in paragraph (b)(4) of this section, under the cod trip limits described under paragraph (b)(2) of this section, must, prior to leaving the dock, declare its intention to do so through the VMS, in accordance with instructions to be provided by the Regional Administrator. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization. If a letter of authorization is required, such vessel may not fish north of the exemption area for a minimum of 7 consecutive days (when fishing under the multispecies DAS program), and must carry the authorization letter on board.

(ii) A vessel exempt from the GOM cod landing limit may not fish north of the line specified in paragraph (b)(4) of this section for the duration of the trip, but may transit the GOM Regulated Mesh Area, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel fishing north and south of the line on the same trip is subject to the most restrictive applicable cod trip limit.

(c) *Atlantic halibut.* A vessel issued a NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut per trip, provided the vessel complies with other applicable provisions of this part.

(d) *Small-mesh multispecies.* (1) Vessels issued a valid Federal NE multispecies permit specified under § 648.4(a)(1) are subject to the following possession limits for small-mesh multispecies, which are based on the mesh size used by, or on board vessels fishing for, in possession of, or landing small-mesh multispecies.

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 inches (6.35 cm).* Owners or operators of a vessel may possess and land not more than 3,500 lb (1,588 kg) of combined silver

hake and offshore hake if either of the following conditions apply:

(A) The mesh size of any net or any part of a net used by or on board the vessel is smaller than 2.5 inches (6.35 cm), as applied to the part of the net specified in paragraph (d)(1)(iv) of this section, as measured in accordance with § 648.80(f); or

(B) The mesh size of any net or part of a net on board the vessel not incorporated into a fully constructed net is smaller than 2.5 inches (6.35 cm), as measured by methods specified in § 648.80(f). “Incorporated into a fully constructed net” means that any mesh smaller than 2.5 inches (6.35 cm) that is incorporated into a fully constructed net may occur only in the part of the net not subject to the mesh size restrictions specified in paragraph (d)(1)(iv) of this section, and the net into which the mesh is incorporated must be available for immediate use.

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 inches (6.35 cm) but less than 3 inches (7.62 cm).* Owners or operators of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 7,500 lb (3,402 kg) of combined silver hake and offshore hake if either of the following conditions apply:

(A) The mesh size of any net or any part of a net used by or on board the vessel is equal to or greater than 2.5 inches (6.35 cm) but smaller than 3 inches (7.62 cm), as applied to the part of the net specified in paragraph (d)(1)(iv) of this section, as measured by methods specified in § 648.80(f); or

(B) The mesh size of any net or part of a net on board the vessel not incorporated into a fully constructed net is equal to or greater than 2.5 inches (6.35 cm) but smaller than 3 inches (7.62 cm), as measured by methods specified in § 648.80(f). “Incorporated into a fully constructed net” means that any mesh smaller than 2.5 inches (6.35 cm) that is incorporated into a fully constructed net may occur only in the part of the net not subject to the mesh size restrictions as specified in paragraph (d)(1)(iv) of this section, and the net into which the mesh is incorporated must be available for immediate use.

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 inches (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake if both of the following conditions apply:

(A) The mesh size of any net or any part of a net used by or on board the vessel is equal to or greater than 3 inches (7.62 cm), as applied to the part of the net specified in paragraph (d)(1)(iv) of this section, as measured by methods specified in § 648.80(f); and

(B) The mesh size of any net or part of a net on board the vessel not incorporated into a fully constructed net is equal to or greater than 3 inches (7.62 cm), as measured by methods specified in § 648.80(f). “Incorporated into a fully constructed net” means that any mesh smaller than 3 inches (7.62 cm) that is incorporated into a fully constructed net may occur only in the part of the net not subject to the mesh size restrictions as specified in paragraph (d)(1)(iv) of this section, and the net into which the mesh is incorporated must be available for immediate use.

(iv) *Application of mesh size.* Counting from the terminus of the net, the mesh size restrictions specified in paragraphs (d)(1)(i) through (iii) of this section are only applicable to the first 100 meshes (200 bars in the case of square mesh) for vessels greater than 60 ft (18.3 m) in length, and to the first 50 meshes (100 bars in the case of square mesh) for vessels 60 ft (18.3 m) or less in length. Notwithstanding any other provision of this section, the restrictions and conditions pertaining to mesh size do not apply to nets or pieces of net smaller than 3 ft by 3 ft (0.9 m by 0.9 m), (9 sq ft (0.81 sq m)).

(2) *Possession limit for vessels participating in the northern shrimp fishery.* Owners and operators of vessels participating in the Small-Mesh Northern Shrimp Fishery Exemption Area, as described in § 648.80(a)(3), with a vessel issued a valid Federal NE multispecies permit specified under § 648.4(a)(1), may possess and land silver hake and offshore hake, combined, up to an amount equal to the weight of shrimp on board,

not to exceed 3,500 lb (1,588 kg). Silver hake and offshore hake on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(3) *Possession restriction for vessels electing to transfer small-mesh NE multispecies at sea.* Owners and operators of vessels issued a valid Federal NE multispecies permit and issued a letter of authorization to transfer small-mesh NE multispecies at sea according to the provisions specified in § 648.13(b) are subject to a combined silver hake and offshore hake possession limit that is 500 lb (226.8 kg) less than the possession limit the vessel otherwise receives. This deduction shall be noted on the transferring vessel’s letter of authorization from the Regional Administrator.

(e) *White hake.* Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may land up to 1,000 lb (453.6 kg) of white hake per DAS, or any part of a DAS, up to 10,000 lb (4,536 kg) per trip.

(f) *Calculation of weight of fillets or parts of fish.* The possession limits described under this part are based on the weight of whole, whole-gutted, or gilled fish. For purposes of determining compliance with the possession limits specified in paragraphs (a), (b), or (c) of this section, the weight of fillets and parts of fish, other than whole-gutted or gilled fish, as allowed under § 648.83(a) and (b), will be multiplied by 3.

(g) *Yellowtail flounder*—(1) *CC/GOM and SNE/MA yellowtail flounder landing limit.* Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing exclusively outside of the U.S./Canada Management Area, as defined under § 648.85(a)(1), may land or possess on board only up to 250 lb (113.6 kg) of yellowtail flounder per DAS, or any part of a DAS, up

to a maximum possession limit of 1,000 lb (453.6 kg) per trip. A vessel fishing outside and inside of the U.S./Canada Management Area on the same trip is subject to the more restrictive yellowtail flounder trip limit (i.e., that specified by this paragraph (g)) or § 648.85(a)(3)(iv)(C).

(2) *GB yellowtail flounder landing limit.* Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing in the U.S./Canada Management Area defined under § 648.85(a)(1) is subject to the GB yellowtail flounder limit described under paragraph § 648.85(a)(3)(iv)(c).

(h) *Other possession restrictions.* Vessels are subject to any other applicable possession limit restrictions of this part.

(i) *Offloading requirement for vessels possessing species regulated by a daily possession limit.* A vessel that has ended a trip as specified in § 648.10(e)(2)(iii) or (h)(5) that possesses on board species regulated by a daily possession limit (i.e., pounds per DAS), as specified at § 648.85 or § 648.86, must offload species in excess of the daily landing limit prior to leaving port on a subsequent trip. A vessel may retain on board up to one day's worth of such species prior to the start of a subsequent trip. Other species regulated by an overall trip limit may be retained on board for a subsequent trip. For example, a vessel that possesses cod and winter flounder harvested from Georges Bank is subject to a daily possession limit for cod of 1,000 lb (453 kg)/DAS and an overall trip limit of 5,000 lb (2,267 kg)/trip for winter flounder. In this example, the vessel would be required to offload any cod harvested in excess of 1,000 lb (453 kg) (i.e., the vessel may retain up to 1,000 lb (453 kg) of Georges Bank cod, but must offload any additional cod), but may retain on board winter flounder up to the maximum trip limit prior to leaving port and crossing the VMS Demarcation Line to begin a subsequent trip.

(j) *GB winter flounder.* Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit,

a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing in the U.S./Canada Management Area defined under § 648.85(a)(1), may not possess or land more than 5,000 lb (2,268.1 kg) of GB winter flounder per trip.

(k) *Other regulated NE multispecies possession restrictions for limited access herring vessels.* All vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit may possess and land up to 100 lb (45 kg), combined, of other regulated NE multispecies on all trips that do not use a multispecies DAS, subject to the requirements specified in § 648.80(d) and (e). Such fish may not be sold for human consumption.

(l) *Cod—(1) GOM cod landing limit.* (i) Except as provided in paragraphs (1)(1)(ii) and (1)(4) of this section, or unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS may land only up to 800 lb (362.9 kg) of cod during the first 24-hr period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 800 lb (362.9 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 800 lb (362.9 kg) for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 4,000 lb (1,814.4 kg) per trip (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than, 1,600 lb (725.7 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 800 lb (362.9 kg) of cod for that trip, provided the vessel complies with the provisions of paragraph (1)(1)(ii) of this section. Cod on board a vessel subject to this landing limit must be separated from other species of

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fish and stored so as to be readily available for inspection.

(ii) A vessel that has been called into or declared into only part of an additional 24-hr block may come into port with and offload cod up to an additional 800 lb (362.9 kg), provided that the vessel operator, with the exception of vessels fishing in one or both of the two differential DAS areas under the restrictions of § 648.82(e)(4), complies with the following:

(A) For a vessel that is subject to the VMS provisions specified under § 648.10(b), the vessel declares through VMS that insufficient DAS have elapsed in order to account for the amount of cod onboard and, after returning to port, does not depart from a dock or mooring in port, unless transiting as allowed under paragraph (1)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been in the DAS program for 25 hr prior to crossing the VMS demarcation line on the return to port may land only up to 1,600 lb (725.7 kg) of cod, provided the vessel does not declare another trip or leave port until 48 hr have elapsed from the beginning of the trip).

(B) For a vessel that has been authorized by the Regional Administrator to utilize the DAS call-in system, as specified under § 648.10(c), in lieu of VMS, the vessel does not call out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (1)(3) of this section, until the rest of the additional 24-hr block of DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr at the time of landing may land only up to 1,600 lb (725.6 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip).

(2) *GB cod landing and maximum possession limits.* (i) Unless otherwise restricted under § 648.85 or the provisions of paragraph (1)(2)(ii) of this section, or unless exempt from the landing limit under paragraph (1)(1) of this section as authorized under the Sector provisions

of § 648.87, a NE multispecies DAS vessel may land up to 1,000 lb (453.6 kg) of cod per DAS, or part of a DAS, provided it complies with the requirements specified at paragraph (1)(4) of this section and this paragraph (1)(2). A NE multispecies DAS vessel may land up to 1,000 lb (453.6 kg) of cod during the first 24-hr period after such vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 1,000 lb (453.6 kg) of cod, but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hr, a vessel may land up to an additional 1,000 lb (453.6 kg) of cod for each additional 24-hr block of DAS fished, or part of an additional 24-hr block of DAS fished, up to a maximum of 10,000 lb (4,536 kg) of cod per trip (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr, may land up to, but no more than, 2,000 lb (907.2 kg) of cod). A vessel that has been called into only part of an additional 24-hr block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hr, but less than 48 hr) may land up to an additional 1,000 lb (453.6 kg) of cod for that trip, provided the vessel complies with the provisions of paragraph (1)(2)(ii) of this section. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel that has been called into or declared into only part of an additional 24-hr block may come into port with and offload cod up to an additional 1,000 lb (453.6 kg), provided that the vessel operator, with the exception of vessels fishing in one or both of the differential DAS areas under the restrictions of § 648.82(e)(4), complies with the following:

(A) For a vessel that has been authorized by the Regional Administrator to utilize the DAS call-in system as specified under § 648.10(c), in lieu of VMS, the vessel does not call out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting, as allowed in paragraph



(1)(3) of this section, until the rest of the additional 24-hr block of DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hr at the time of landing may land only up to 2,000 lb (907.2 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip.)

(B) For a vessel that is subject to the VMS provisions specified under § 648.10(b), the vessel declares through VMS that insufficient DAS have elapsed in order to account for the amount of cod onboard, and after returning to port does not depart from a dock or mooring in port, unless transiting, as allowed under paragraph (1)(3) of this section, until the rest of the additional 24-hr block of the DAS has elapsed, regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been in the DAS program for 25 hr prior to crossing the VMS demarcation line on the return to port may land only up to 2,000 lb (907.2 kg) of cod, provided the vessel does not declare another trip or leave port until 48 hr have elapsed from the beginning of the trip.)

(3) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraphs (1)(1) and (2) of this section, and that is, therefore, subject to the requirement to remain in port for the period of time described in paragraphs (1)(1)(ii)(A) and (1)(2)(ii)(A) of this section, may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator, either at the time the vessel reports its hauled weight of cod, or at a later time prior to transiting, and provides the following information: Vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.23(b) and may not have any fish on board the vessel.

(4) *Exemption.* A vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (1)(1) of this section when fishing south of the Gulf of Maine Regulated

Mesh Area, defined in § 648.80(a)(1), provided that it complies with the requirement of this paragraph (1)(4).

(i) *Declaration.* With the exception of vessels declared into the U.S./Canada Management Area, as described under § 648.85(a)(3)(viii), a NE multispecies DAS vessel that fishes or intends to fish south of the line described in this paragraph (1)(4)(i) under the cod trip limits described under paragraph (1)(2) of this section, must, prior to leaving the dock, declare its intention to do so through the VMS, in accordance with instructions to be provided by the Regional Administrator. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization. If a letter of authorization is required, such vessel may not fish north of the exemption area for a minimum of 7 consecutive days (when fishing under the NE multispecies DAS program), and must carry the authorization letter on board.

(ii) A vessel exempt from the GOM cod landing limit may not fish north of the line specified in this paragraph (1)(4)(ii) for the duration of the trip, but may transit the GOM Regulated Mesh Area, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel fishing north and south of the line on the same trip is subject to the most restrictive applicable cod trip limit.

(m) *Witch flounder.* Unless otherwise restricted under this part, a vessel issued a NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may land up to 1,000 lb (453.6 kg) of witch flounder per DAS, or any part of a DAS, up to 5,000 lb (2,268.1 kg) per trip.

(n) *Zero retention stocks*—(1) *SNE winter flounder.* Vessels issued a NE multispecies permit may not fish for, possess, or land winter flounder caught in the SNE/MA winter flounder stock area, as defined in § 648.85(b)(10)(v)(E). Vessels may transit this area with GOM or GB winter flounder on board the vessel, provided that gear is stowed in accordance with the provisions of § 648.23(b). Vessels fishing for winter

flounder in multiple stock areas are subject to the most restrictive winter flounder possession limit.

(2) *Northern windowpane flounder.* Vessels issued a NE multispecies permit may not fish for, possess, or land windowpane flounder caught in the northern windowpane flounder stock area, as defined in §648.85(b)(10)(v)(F). Vessels may transit this area with southern windowpane flounder on board, provided that gear is stowed in accordance with the provisions of §648.23(b). Vessels fishing for windowpane flounder in multiple stock areas would be subject to the most restrictive windowpane flounder possession limit.

(3) *Ocean pout.* Vessels issued a NE multispecies permit may not fish for, possess or land ocean pout.

(o) *White hake.* Unless otherwise restricted under this part, a vessel issued NE multispecies DAS permit, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may only land up to 2,000 lb (907.2 kg) of white hake per DAS, or any part of a DAS, up to 10,000 lb (4,536 kg) per trip.

[69 FR 22978, Apr. 27, 2004, as amended at 70 FR 76428, Dec. 27, 2005; 71 FR 46876, Aug. 15, 2006; 71 FR 62193, Oct. 23, 2006; 72 FR 11277, Mar. 12, 2007; 72 FR 73280, Dec. 27, 2007; 74 FR 20556, May 4, 2009]

EFFECTIVE DATE NOTES: 1. At 74 FR 17062, Apr. 13, 2009, §648.86 was amended by suspending paragraph (b) and by adding paragraphs (l), (m) and (n), effective May 1, 2009 through October 28, 2009.

2. At 74 FR 32469, July 8, 2009, §648.86 was amended by suspending paragraphs (e) and (j) and by adding paragraph (o), effective July 2, 2009 through October 28, 2009.

#### § 648.87 Sector allocation.

(a) *Procedure for implementing Sector allocation proposal.* (1) Any person may submit a Sector allocation proposal for a group of limited access NE multispecies vessels to the Council, at least 1 year in advance of the start of a sector, and request that the Sector be implemented through a framework procedure specified at §648.90(a)(2), in accordance with the conditions and restrictions of this section.

(2) Upon receipt of a Sector allocation proposal, the Council must decide whether to initiate such framework. Should a framework adjustment to authorize a Sector allocation proposal be initiated, the Council should follow the framework adjustment provisions of §648.90(a)(2). Any framework adjustment developed to implement a Sector allocation proposal must be in compliance with the general requirements specified in paragraphs (b) and (c) of this section. Vessels that do not join a Sector would remain subject to the NE multispecies regulations for non-Sector vessels specified under this part.

(b) *General requirements applicable to all Sector allocations.* (1) All Sectors approved under the provisions of paragraph (a) of this section must submit the documents specified under paragraphs (a)(1) and (b)(2) of this section, and comply with the conditions and restrictions of this paragraph (b)(1).

(i) The sector allocation must be based on either a TAC limit (hard TAC), or a maximum DAS usage limit for all vessels with a target TAC.

(ii) A Sector shall be allocated no more than 20 percent of a stock's TAC, unless otherwise authorized by the Council.

(iii) Allocation of catch or effort shall be based upon documented accumulated catch histories of the harvested stock(s) for each vessel electing to fish in a Sector, for the 5-year period prior to submission of a Sector allocation proposal to the Council. Documented catch shall be based on dealer landings reported to NMFS.

(iv) Landings histories for Sectors formed to harvest GB cod during the period 2004 through 2007 shall be based on fishing years 1996 through 2001.

(v) The Sector allocation proposal must contain an appropriate analysis that assesses the impact of the proposed Sector, in compliance with the National Environmental Policy Act.

(vi) Once a hard TAC allocated to a Sector is projected to be exceeded, Sector operations will be terminated for the remainder of the fishing year.

(vii) Should a hard TAC allocated to a Sector be exceeded in a given fishing year, the Sector's allocation will be reduced by the overage in the following